

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

KPM ANALYTICS NORTH AMERICA
CORPORATION,

Plaintiff.

V.

Civil Action No. 21-10572-MRG

BLUE SUN SCIENTIFIC, LLC, THE
INNOVATIVE TECHNOLOGIES GROUP &
CO., LTD., ARNOLD EILERT, MICHELLE
GAJEWSKI, ROBERT GAJEWSKI,
RACHAEL GLENISTER, GREGORY
ISRAELSON, IRVIN LUCAS, AND PHILIP
OSSOWSKI,

Defendants.

DECLARATION OF SCOTT R. MAGEE

I, Scott R. Magee, pursuant to 28 U.S.C. § 1476, do hereby state as follows:

1. I am a member in good standing of the bar of the Commonwealth of Massachusetts, and I am admitted to practice before this Court. I am in good standing in all other jurisdictions where I am admitted to practice. I am a Member in the law firm Morse Barnes-Brown & Pendleton, PC (“Morse”), located at 480 Totten Pond Road, Waltham, Massachusetts. I am counsel for Plaintiff, KPM Analytics North America Corporation (“KPM”), in the above-captioned proceeding.
2. I submit this Declaration in connection with KPM’s Motion for Attorneys’ Fees and Costs (“Motion”). I make this Declaration based upon personal knowledge unless otherwise indicated.
3. I have served as counsel in numerous complex litigations during my 18 year career, and focus my practice on litigation, arbitration, and pre-litigation dispute resolution on matters related to trade secrets, mergers and acquisitions, employment, product liability, securities, and widespread corporate governance matters in both state and federal court. I frequently represent

businesses in a wide variety of industries, including biotech, pharmaceutical, health care, telecommunications, software, construction, and real estate. I have tried jury and bench trials in state and federal court as well as lengthy arbitration hearings. I was named a “Rising Star” in the area of business litigation by Super Lawyers Magazine for the years 2010 through 2017.

4. A copy of my biography as it appears on Morse’s website is attached here as **Exhibit A**.

5. KPM engaged Morse Barnes-Brown & Pendleton, PC (“Morse”) on March 1, 2021 as its legal counsel to in this matter to evaluate the conduct by the defendants that was ultimately alleged in the complaint and proven at trial, and to engage in litigation to resolve those claims.

6. I currently charge KPM \$555 per hour. I charged KPM \$495 per hour in 2021 and \$530 per hour in 2022. These rates are below the customary hourly rate for an attorney of similar experience and ability in Massachusetts.

7. Paige Zacharakis is a sixth-year associate at Morse. Ms. Zacharakis focuses her practice on complex civil litigation, including intellectual property, corporate, and employment disputes and also represents clients before the Trademark Trial and Appeal Board. Before joining Morse in 2020, Ms. Zacharakis was employed by Pithie & Associates of Weymouth, Massachusetts where she practiced commercial litigation with a focus on construction disputes. Ms. Zacharakis also served as a legal intern to the Honorable David A. Lowy at the Massachusetts Supreme Judicial Court and is the co-author of the Fourth Edition of the MCLE “Massachusetts Discovery Practice” chapter 9, titled “Protecting Confidential Information Before and During Discovery.”

8. Ms. Zacharakis currently charges KPM \$370 per hour. Ms. Zacharakis charged KPM \$330 per hour in 2021 and \$355 per hour in 2022. These are below the customary range of hourly rates for an attorney of Ms. Zacharakis’ experience and ability.

9. Mr. Gutkoski, Ms. Zacharakis, and I handled most of the work relating to the complaint (*see* ECF No. 1), the preliminary injunction (*see* ECF Nos. 93-94, 119-120), early motion practice, discovery, and summary judgment. Kevin Mosier, of Sunstein LLP, and Ms. Zacharakis handled most of the pre-trial work in the case, with appropriate input from me and Mr. Gutkoski, including the Joint Pre-Trial Memorandum (*see* ECF No. 180), Trial Brief (*see* ECF No. 184), motions *in limine* (*see* ECF Nos. 194-199), and proposed jury instructions (*see* ECF No. 185-2). Mr. Mosier handled most of the supplemental briefing during trial, including KPM's updated proposed jury instructions (*see* ECF Nos. 218, 220, 224, 227). Each of us were involved in the preparation and presentation of witnesses, evidence, and arguments at trial.

10. Due to the expedited schedule and the nature of the case, discrete tasks were assigned to additional Morse attorneys to ensure that all tasks were completed in a timely manner. These attorneys were:

- a. Matthew Mitchell, a Member at Morse, who provided advice concerning employment law issues, which is his area of expertise. Mr. Mitchell's hourly rate was \$545 in 2021 when he performed these services.
- b. Joseph Marrow, Member at Morse. Mr. Marrow is corporate counsel for KPM and provided advice, as necessary, relating to KPM's historical practices and corporate issues. Mr. Marrow's hourly rate was \$620 in 2021 when he performed his services.

11. The assistance provided by each of the attorneys who worked on this case was necessary and not duplicative.

12. True and accurate copies of Morse invoices submitted to and/or paid by KPM are attached as **Exhibit B**. I have reviewed the invoices and attest to the validity of the invoices.

13. Morse charged KPM a total of \$963,439 in attorneys' fees in this case and \$12,795 in costs relating to the litigation.

14. The rates charged and the total attorneys' fees and costs incurred are reasonable given the Boston-area market and the services that Morse provides. As discussed in KPM's Motion, cases of this nature typically result in higher attorneys' fees because of the complex issues and often technical nature of the trade secrets at issue.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 21, 2023

/s/ Scott R. Magee
Scott R. Magee